

Timothy M. Stubson [6-3144]
Brown, Drew, & Massey, LLP
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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF WYOMING

In Re:)	
)	
THE COLUMBINE GROUP, LLC,)	Case No. 10-20133
)	Chapter 11
Debtor.)	

PINNACLE BANK'S MOTION TO DISMISS CASE

COMES NOW Pinnacle Bank, a creditor in the above-captioned matter, and hereby moves to dismiss or convert this case. In support of this motion, the creditor states as follows:

1. Pinnacle Bank is a creditor of the debtor and holds secured interests against a hotel property owned by Debtor and located in Laramie, Wyoming.
2. Debtor is a flexible limited liability company under the laws of the state of Wyoming.
3. Debtor's sole member is Samuel J. Tilden (hereinafter Tilden).
4. Debtor filed its petition for bankruptcy protection on February 16, 2010.
5. Tilden filed a petition for bankruptcy protection on February 23, 2010.
6. Section 1112(b) defines those circumstance under which dismissal is appropriate in a Chapter 11 case.
7. Section 1112(b)(4) includes a list of factors that establish cause, that the court is able to consider. The list is not exhaustive.

8. In this case cause exists because under Wyoming law there is not a reasonable likelihood of rehabilitation by the Debtor.

9. “In the context of a voluntary bankruptcy, the United States Supreme Court has consistently held that a corporation’s ability to avail itself of the bankruptcy laws depends on how the state in which it was incorporated defines its existence after dissolution.” *In re Midpoint Development, LLC*, 466 F.3d 1201 (10th Cir. 2006) citing *In re Anderson*, 94 B.R. 153 (Bankr. W.D. Mo. 1988).

10. Pursuant to its articles of organization Debtor has elected to be a Flexible Limited Liability Company. Exhibit A, ¶ 10. A Flexible Limited Liability Company is dissolved and its affairs shall be wound up upon the happening of any event described in Wyo. Stat. § 17-15-123(a). Wyo. Stat. Ann. § 17-15-144(c). Included in those events is the bankruptcy of any member. Wyo. Stat. Ann. § 17-15-123(a)(iii).

11. Under the Articles of Organization of the Debtor only the “remaining” members of the Debtor can continue to operate the business if a member files for bankruptcy. *See* Articles of Organization of the Columbine Group, LLC, ¶ 8, attached hereto as Exhibit A.

12. Because the articles of organization only permit a continuation of the business if the **remaining** members elect to continue and because there are no remaining members to make such an election Wyo. Stat. § 17-14-144(c) mandates a dissolution of the flexible limited liability company in this situation.

13. Due to the Debtor’s inability to continue to operate as a flexible limited liability company pursuant to Sections 17-15-144 and 17-15-123, Pinnacle Bank moves that this case be dismissed or converted to a case under Chapter 7 pursuant to 11 U.S.C. §1112(b)(1) and § 1112(b)(4)(A).

WHEREFORE creditor respectfully requests that the Court grant this motion and dismiss this case and for such other relief as the Court deems just and proper.

DATED this 15th day of April, 2010.

PINNACLE BANK, Creditor

By: /s/ Timothy M. Stubson
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CERTIFICATE OF SERVICE

I certify that on this 15th day of April, 2010, a true and correct copy of the above document was mailed, postage prepaid, to the following:

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/s/Timothy M. Stubson
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